

AFFILIATION AGREEMENT

THIS AFFILIATION AGREEMENT ("Agreement") is made and entered into this _____ day of _____, 1999, by and among HEALTH MIDWEST, a Missouri public benefit corporation ("HM"), HEALTH MIDWEST - INDEPENDENCE, a Missouri public benefit corporation ("HMI"), INDEPENDENCE REGIONAL HEALTH CENTER, a Missouri public benefit corporation ("IRHC") and MEDICAL CENTER OF INDEPENDENCE, a Missouri public benefit corporation ("MCI").

WITNESSETH:

WHEREAS, Health Midwest is a Missouri public benefit corporation which is exempt from federal income taxation under §501(a) of the Internal Revenue Code ("Code") by virtue of being an organization described under §501(c)(3) of the Code and serves as the parent company for a comprehensive integrated system of organizations dedicated to the delivery of health care services to the Kansas City metropolitan area and the surrounding region, and which includes general acute care hospitals and related services, mental health services, physician clinics and office facilities, outreach clinical and support services, outpatient care and wellness activities, occupational health clinics, and other health care related activities;

WHEREAS, HM is the sole member of HMI and HMI is the sole member of IRHC and MCI, both of which operate acute care hospitals in eastern Jackson County, Missouri; and

WHEREAS, the parties desire to operate MCI and IRHC within the HM system as efficiently as possible consistent with system goals and objectives and desire to establish the rights, responsibilities and allocation of authority among HM, HMI, IRHC and MCI with respect to the operation and management of HMI, IRHC and MCI;

NOW, THEREFORE, in consideration of the foregoing and the mutual covenants hereinafter set forth, the parties agree as follows:

AGREEMENT:

1. Governance.

a. **HMI.** HMI will adopt, and will maintain in force for the duration of this Agreement, articles and bylaws which establish the following:

i. HM will be the sole member of HMI under the Missouri Nonprofit Corporations Act, Chapter 355 of the Revised Statutes of Missouri, with all the rights associated with being a member under such law including, without limitation, the right to elect and remove directors of HMI, the right to approve

amendments to the articles and bylaws of HMI, and the right to approve any fundamental corporate change of HMI (such as merger, dissolution, or sale of all or substantially all of the assets).

ii. HMI's board will consist of at least 18 persons, all of whom will be elected by HM. The Presidents and Presidents-Elect of the medical staffs of MCI and IRHC will serve ex officio with vote. At least three of the directors will also be directors serving on the board of HM. Directors will serve staggered three-year terms with approximately 1/3 of the terms expiring each year. Directors may serve up to five consecutive three-year terms. No persons may be elected a director if they have reached the age of 70 at the time of election, but any directors who become 70 during their term may complete the term.

iii. HM will be able to remove any director of HMI with or without cause.

iv. HMI will adopt the HM conflicts of interest policy.

v. Upon dissolution of HMI, all of the remaining assets after satisfaction of outstanding debts will be distributed to HM; provided that it qualifies as an organization exempt from federal income tax under Code §501(c)(3), or any successor provision thereto. If HM does not then so qualify, distribution of the net assets of HMI will be made to such §501(c)(3) tax exempt organization(s) as the Board of HMI may designate by resolution, subject to approval of such resolution by HM as sole member.

vi. The articles of incorporation and the bylaws of HMI may contain other legally appropriate provisions as mutually agreed by HMI and HM, provided that such provisions do not conflict with the foregoing.

b. **MCI and IRHC.** MCI and IRHC will adopt, and will maintain in force for the duration of this Agreement, articles and bylaws which establish the following:

i. HMI will be the sole member of MCI and IRHC under the Missouri Nonprofit Corporations Act, Chapter 355 of the Revised Statutes of Missouri, with all the rights associated with being a member under such law including, without limitation, the right to elect and remove directors of MCI and IRHC, the right to approve amendments to the articles and bylaws of MCI and IRHC, and the right to approve any fundamental corporate change of MCI and IRHC (such as merger, dissolution, or sale of all or substantially all of the assets).

ii. MCI's and IRHC's boards will each consist of at least 13 persons, all of whom will be elected by HMI. The President and President-Elect of the respective medical staffs will serve ex officio with vote on their respective boards. At least three of the MCI directors will also be directors serving on the board of HM. At least two of the IRHC directors will also be directors serving on the board

of HM. Directors will serve staggered three-year terms with approximately 1/3 of the terms expiring each year. Directors may serve up to five consecutive three-year terms. No persons may be elected a director if they have reached the age of 70 at the time of election, but any directors who become 70 during their term may complete the term.

iii. HMI will be able to remove any director of MCI or IRHC with or without cause.

iv. MCI and IRHC will adopt the HM conflicts of interest policy.

v. Upon dissolution of MCI or IRHC, all of the remaining assets after satisfaction of outstanding debts will be distributed to HMI; provided that it qualifies as an organization exempt from federal income tax under Code §501(c)(3), or any successor provision thereto. If HMI does not then so qualify, distribution of the net assets of HMI will be made to such §501(c)(3) tax exempt organization(s) as the Board of the dissolving corporation may designate by resolution, subject to approval of such resolution by HMI as sole member.

vi. The articles of incorporation and the bylaws of MCI and IRHC may contain other legally appropriate provisions as mutually agreed by the respective corporation and HMI, provided that such provisions do not conflict with the foregoing.

2. **Allocation of Management Rights, Responsibilities and Authority.**

a. **HM Management Rights, Responsibilities and Authority.** HM will have the following management rights, responsibilities and authority over HMI, MCI and IRHC:

i. HM will have general budgeting and financial control over HMI, MCI and IRHC, including the right to approve individual and integrated capital and operating budgets, the incurrence of debt, capital acquisition strategies, and unbudgeted expenditures or expenditures that exceed the levels of approval authority.

ii. HM will approve all sales, conveyances or other dispositions of property by HMI, MCI and IRHC.

iii. HM will establish the levels of approval authority for the boards, committees, and officers of HMI, MCI and IRHC which will limit the spending authority of such boards, committees, and officers in following areas, without limitation: creation of new officer positions, salary changes for officer positions, budgeted and unbudgeted capital expenditures, and budgeted and unbudgeted consulting and legal fees.

iv. HM will approve individual and integrated strategic business plans.

v. HM will provide overall direction and coordination of the managed care contracting activities and will have the ability to enter managed care contracts that bind HMI, MCI and IRHC, including managed care contracts that include other HM system entities.

vi. HM will provide general management and administration services including, without limitation, marketing, strategic planning, financial, accounting, budgeting, organizational, personnel, purchasing, financing, public relations, risk management, insurance programming and information services.

vii. HM will provide access to financing and capital markets.

viii. HM will provide overall direction and coordination of physician recruitment and retention activities.

ix. HM will be the ultimate arbiter of any dispute among HMI, MCI and/or IRHC. HM will be the ultimate arbiter for any disagreements regarding the allocation of rights, responsibilities and authority among HM, HMI, MCI and IRHC, regardless of whether such rights, responsibilities and authority are specifically addressed in this Agreement. HM will be the ultimate arbiter for any disagreements arising under this Agreement.

b. **HMI Management Rights, Responsibilities and Authority.** HMI will have the following management rights, responsibilities and authority over MCI and IRHC:

i. HMI will control service configuration between MCI and IRHC by coordinating existing programs and services; shifting, transferring, adding, and/or modifying the programs and services; and reducing or eliminating existing programs and services.

ii. HMI will identify and implement opportunities and plans for sharing of resources among MCI and IRHC (for example, space, equipment, and personnel).

iii. HMI will monitor compliance with directives concerning service configuration and resource sharing.

iv. HMI will approve the appointment of all senior officers and the performance of such senior officers will be subject to review and evaluation by HMI.

v. HMI will coordinate and oversee the following activities carried on individually by MCI and IRHC in order to assist them in achieving their charitable and exempt purposes through a unified operating philosophy:

- (1) Quality of care;
- (2) Regulatory compliance;
- (3) Accreditation and licensing; and
- (4) Medical staff liaisons and relationships.

c. **MCI and IRHC Management Rights, Responsibilities and Authority.**

Without interfering with the management rights, responsibilities and authority allocated to HM and HMI above, MCI and IRHC will each have the following management rights, responsibilities and authority over their respective operations:

- i. MCI and IRHC will oversee general day-to-day management of facility operations.
- ii. MCI and IRHC will define their respective mission, vision and values consistent with the HM system mission, vision and values.
- iii. MCI and IRHC will recommend their respective strategic business plans for approval by HMI and HM as part of the HM system integrated strategic business plan.
- iv. MCI and IRHC will recommend individual operating and capital budgets for approval by HMI and HM as part of the HM system integrated operating and capital budget.
- v. MCI and IRHC will approve transactions and expenditures within their respective budgets and levels of approval authority established by HM and recommend to the HMI and HM boards for their approval transactions and expenditures which exceed the respective budgets or levels of approval authority.
- vi. MCI and IRHC will oversee general quality assurance and utilization review issues, including general responsibility for quality of care within their respective facilities, and review and action upon reports of regulatory and accrediting agencies.
- vii. MCI and IRHC will oversee credentialing, recredentialing and disciplining of their respective medical and allied health professional staffs.
- viii. MCI and IRHC will establish the fees and prices charged at their respective facilities, subject to any managed care contracting by HM.

ix. MCI and IRHC will determine and resolve religious matters and ethical issues relating to the services offered at their respective facilities.

x. MCI and IRHC will exercise control over internal divisions and subsidiaries, for example, auxiliaries and foundations.

3. **Medical Staffs.** The medical staffs of MCI and IRHC shall remain completely separate, internally autonomous, self-governing medical staffs responsible only to their respective boards of directors in accordance with their respective medical staff bylaws and applicable Missouri law. The medical staffs shall have no direct organizational or official interrelationship with any of the other hospitals within the HM System. The parties recognize and mutually acknowledge that MCI and IRHC shall continue to work independently with their respective medical staffs and medical staff organizations, including all hospital based and other contract physicians, as in the past in order to foster effective, efficient, high quality local patient care.

4. **Auxiliaries.** The IRHC auxiliary is currently a separately incorporated, tax exempt corporation with a separate board of directors. The IRHC auxiliary will remain responsible solely to its board of directors. The IRHC auxiliary is currently considering dissolving into IRHC. In that event, the IRHC auxiliary will be treated like the MCI auxiliary as described in the next sentence. The MCI auxiliary shall remain responsible solely to the MCI board of directors, and shall remain completely separate and apart from any other hospital auxiliary within the Health Midwest System and shall have no direct organizational or official interrelationship with the auxiliary of any other hospital. The parties mutually acknowledge that MCI and IRHC shall continue to work independently with their respective Auxiliary as in the past to further broad-based community support, for the delivery of high quality patient care in the Eastern Jackson County service area, and to further their respective missions.

5. **Miscellaneous.** This Agreement constitutes the entire agreement of the parties and may not be amended or terminated without the written consent of all the parties. The headings appearing in this Agreement have been inserted solely for the convenience of the parties and shall be of no force or effect in the construction of the provisions of this Agreement. This Agreement shall be binding upon and inure to the benefit of the parties hereto, their respective successors and permitted assigns. No party to this Agreement may assign its rights or delegate its duties to any other person or entity without the prior written consent of all the parties hereto. Nothing in this Agreement, express or implied, is intended to confer upon any other person other than the parties hereto any rights or remedies under or by reason of this Agreement. This Agreement shall be construed under the laws of the State of Missouri.

[The remainder of this page is intentionally left blank.]

**THIS AGREEMENT CONTAINS A BINDING ARBITRATION PROVISION
WHICH MAY BE ENFORCED BY THE PARTIES.**

HEALTH MIDWEST

By: _____

Name: _____

Title: _____

HEALTH MIDWEST-INDEPENDENCE

By: _____

Name: _____

Title: _____

**MEDICAL CENTER OF
INDEPENDENCE**

By: _____

Name: _____

Title: _____

**INDEPENDENCE REGIONAL
HEALTH CENTER**

By: _____

Name: _____

Title: _____